



United States Department of the Interior



FISH AND WILDLIFE SERVICE

5600 American Boulevard West, Suite 990
Bloomington, Minnesota 55437-1458

IN REPLY REFER TO:

FWS/R3/RD/

AUG 27 2021

Mr. Mark Rothfork
Senior Permitting Specialist
ITC Holdings
20789 780th Avenue
Albert Lea, Minnesota 56007

Dear Mr. Rothfork:

On September 8, 2020, the U.S. Fish and Wildlife Service granted a Right-of-Way Permit for Electrical Transmission Lines to Dairyland Power Cooperative and ITC Midwest LLC across certain lands of the Upper Mississippi River National Wildlife and Fish Refuge in Clayton County, Iowa. The permit is related to the Cardinal-Hickory Creek Transmission Line project and states that it is "for the re-alignment of an existing right-of-way." A prerequisite for permit issuance was a finding of compatibility, and USFWS made a Compatibility Determination for this use on December 19, 2019.

Recently, in connection with USFWS's review of your March 2021 application for an amended right-of-way, USFWS learned that an error had previously been made regarding the 2019 Compatibility Determination when identifying the existing rights-of-way proposed for re-alignment. As a result, USFWS did not review the correct easement documents when evaluating the existing use (i.e., the existing rights-of-way for the transmission lines that presently cross the Refuge) as part of the Compatibility Determination. After further consideration, USFWS has determined that the 2019 Compatibility Determination must be rescinded because this error calls into question portions of its analysis and conclusions. Without a valid underlying compatibility determination, the 2020 Right-of-Way Permit must also be revoked.

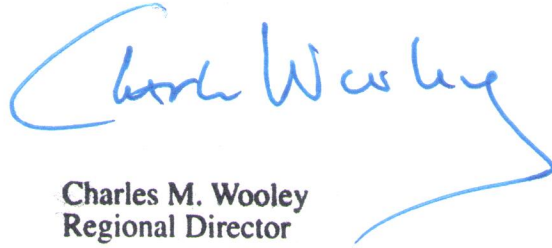
USFWS's rescission of the 2019 Compatibility Determination and revocation of the 2020 Right-of-Way Permit are effective immediately. However, as stated in Refuge Manager Sabrina Chandler's letter of August 3, 2021, USFWS is committed to working with you toward timely review of the land exchange you have proposed in lieu of your March 2021 application for an amended right-of-way permit. To date, we have worked with you to ensure you have identified a qualified appraiser, and we are in the process of developing a statement of work for the appraisal and defining specific terms of the proposed land exchange. USFWS concurs that a land exchange is a potentially favorable alternative to a right-of-way permit.

Mr. Mark Rothfork

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An appeal may be taken from this final disposition of the Regional Director to the Director, U.S. Fish and Wildlife Service, and from the latter's decision to the Secretary of the Interior. 50 C.F.R. § 29.22. If you wish to appeal this decision, you must submit your appeal and any supporting materials or explanation in writing within 30 calendar days of the date of this decision to the Director, U.S. Fish and Wildlife Service, U.S. Department of the Interior, 1849 C St NW, Washington, D.C. 20240. Appeals to the Secretary shall be taken pursuant to 43 C.F.R. part 4, subpart G.

Sincerely,



Charles M. Wooley
Regional Director

cc: Justin Chasco, Attorney - Wheeler, Van Sickle & Anderson, S.C.